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Attorney for Secured Creditor  
US Bank Trust National Association as Trustee of the Igloo Series III Trust

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

In Re:	)	CASE NO.: 13-46458
VINCENT RAY AKERS	)	
CANDI LOUISE AKERS	)	CHAPTER 13
	)	
	)	RS No.: MRG-100
Debtor.	)	
	)	<b>MEMORANDUM OF POINTS</b>
	)	<b>AND AUTHORITIES IN</b>
	)	<b>SUPPORT OF MOTION FOR</b>
	)	<b>RELIEF FROM AUTOMATIC</b>
	)	<b>STAY</b>
	)	
	)	Date: October 17, 2018
	)	Time: 9:30 a.m.
	)	Ctrm: 220
	)	Place: US Bankruptcy Court
	)	1300 Clay Street
	)	Oakland, CA 94612
	)	
	)	Judge: William J Lafferty
	)	
	)	

1 TO ALL PARTIES IN INTEREST AND TO THEIR ATTORNEYS OF RECORD:

2 US Bank Trust National Association as Trustee of the Igloo Series III Trust, its  
3 successors and/or assignees, ("Secured Creditor"), by and through its undersigned attorney,  
4 moves this Court for termination of all stays and injunctions, pursuant to 11 U.S.C. §362(d)  
5 and 105 and Federal Rules of Bankruptcy Procedure 4001 and 9014 and regarding the real  
6 property commonly known as 2856 Gardenside Court, Brentwood, CA 94513, ("Property"  
7 herein).

8 The relief requested in this Motion is proper for all of the reasons set forth in the  
9 Memorandum of Points and Authorities and incorporated herein by this reference.

10 On or about 12/04/2013, Debtor filed a Voluntary Petition under Chapter 13 of the  
11 Bankruptcy Code. Pursuant to 11 U.S.C. §362, the Petition stays the commencement or  
12 continuance of any proceedings against the Debtor or any act to obtain possession of any  
13 property of the Debtor or to enforce any lien against any property of the Debtor. This Court  
14 has jurisdiction pursuant to 28 U.S.C. §1334. The filing of this Motion commences a  
15 contested matter within the meaning of Bankruptcy Rule 9014.

16 Pursuant to 11 U.S.C. §362(d)(1), Movant is entitled to relief from the automatic stay  
17 to enforce its lien for cause, including lack of adequate protection of any interest in the  
18 Property. Failure to make mortgage payments in a Chapter 13 can constitute cause for lifting  
19 the stay. The Debtor has the burden of showing there is no cause to terminate the stay. *In re*  
20 *Ellis*, 60 B.R. 432 (9<sup>th</sup> Circ. BAP 1985). Where cause is shown, courts have no discretion, but  
21 must grant relief. *In re Ford*, 36 B.R. 501 (Dt 1983). Movant is not receiving regular monthly  
22 post-petition payments. Debtor is currently post-petition due for 10/1/2017.

23 As of 9/26/2018, Debtor's loan is now post petition due for approximately  
24

25 ///

26 ///

27 ///

28 ///

Monthly payments:	7	at	\$3333.43	\$	23,334.01
Bankruptcy Attorney Fee:				\$	850.00
Bankruptcy Filing Fee:				\$	181.00
Less Suspense				\$	1,854.62
<b>Total Delinquencies:</b>				<b>\$</b>	<b>22,510.39</b>

The sums set forth in this motion do not include any late charges, escrow advances, or other fees and charges that might otherwise be included in the event that a payoff is requested or provided.

The next scheduled monthly payment of \$3,333.43 is due 10/1/2018, and continuing each month thereafter. However, this amount may be subject to change pursuant to the terms of the applicable loan documents.

Movant is not adequately protected. Movant is not receiving regular monthly payments, and is unfairly delayed from proceeding with the foreclosure of the Property.. Accordingly, relief from the automatic stay should be granted to Movant pursuant to 11 U.S.C. §362(d)(1).

Dated: September 26, 2018

LAW OFFICES OF MICHELLE GHIDOTTI

/s/ Adam P. Thursby

Adam P. Thursby, Esq.

US Bank Trust National Association as Trustee of

the Igloo Series III Trust